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EXAMINER

MITCHELL, JASON D

ART UNIT PAPER NUMBER

2193

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,571

Applicant(s)

CHEN ET AL.

Examiner

Jason Mitchell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-2, 4-11 and 13-19 are pending in this application.

Response to Arguments/Amendments

Applicant's arguments filed 8/10/06 have been fully considered but they are not persuasive.

Applicants argue:

1: "[T]he configuration information collected by Staveley does not include debug data" because "none of the configuration commands [i.e. "config" and "test.config"] described by Staveley are debug commands, such as "debug", that collect debug data".

2: "Staveley does not teach or suggest running a scan tool, wherein the scan tool collects debug data ... in response to a problem with a product at a customer site" because "The data collected by Staveley is to ensure proper configuration of the components running on a target device and not problems occurring within a device. [sic] Therefore, Staveley teaches a system where a main module issues a data collection command to all target devices and the command is not issued in response to a problem with a product at a customer site."

3: "Staveley does not teach or suggest comparing the debug data to code level data using a comparison utility at the customer support site, to identify mismatches" because

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“comparing version information is not equivalent to comparing debug data to code level data to identify mismatches”.

4: “Staveley does not teach or suggest notifying the remote customer of the problem or providing instructions to the remote customer for resolving the problem in response to identifying mismatches” because “Staveley merely makes the information available to users or clients”.

5: “One of ordinary skill in the art, being presented only with Staveley and Steel, and without having a prior knowledge of application’s claimed invention, would not have found it obvious to combine and modify Staveley and Steele to” store Staveley’s collected debug data (‘configuration information’) in a text format as claimed.

Regarding point 1:

Applicants’ arguments are not persuasive because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. With the exception of pointing out the different language used (i.e. ‘config’ vs. ‘debug’), Applicant has not provided any indication of the functionality that distinguishes Staveley’s “configuration commands” from the claimed “debug commands”.

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Applicants' specification pg. 6, line 27 – pg. 7, line 12 states "The debug data may include configuration information. For example ... operating system version, operating system patch version, and management software versions ... how each port is initialized ... the switch model". As Applicant acknowledged "Staveley describes the configuration information collected as operating system information ... network information, software application information, or the like." Accordingly Examiner respectfully asserts Staveley "configuration information" anticipates the claimed "debug data".

Regarding point 2:

Staveley explicitly discloses issuing a data collection command to fewer than all target devices (e.g. col. 2, lines "The system ... probes some ... of the devices"; col. 3, lines 21-23 "collecting the information for the specified machines"). Further, as noted in the rejection, one of ordinary skill in the art would recognize the execution of a program that insures good system health (col. 2, lines 50-52) as an obvious response to a notification that the system was in poor health (i.e. a problem report).

Regarding point 3:

Applicants' arguments are not persuasive because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. With the exception of a statement that they are 'not equivalent', Applicant has not indicated how

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"comparing debug data to code level data" is distinguished from "comparing version information".

On pg. 9, lines 20-25 of the specification, Applicants disclose that code level data "refers to all version information". On pg. 6 line 27 – pg. 7, line 12 Applicants disclose that debug data "may include configuration information. For example ... operating system version". Accordingly, Examiner respectfully asserts that Staveley's comparison of "the installed version with the latest version" (col. 5, lines 36-38) anticipates the claimed "comparing the debug data to code level data".

Regarding point 4:

As noted in the rejection Staveley discloses notifying the remote customer of the problem (col. 18, lines 45-46 "reporting system configuration data to users"; col. 12, lines 39-43 "reports can be generated to show ... whether a system's applications meet certain compliance requirements") and in view of the teaching of Salgado (par. [0007] "the system administrator must ... give instructions to each user on how to perform this task.") it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide instructions to the remote customer for resolving the problem.

Regarding point 5:

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As noted in the rejection Staveley implicitly discloses protecting the customer site with a firewall (col. 7, line 33 'checks firewall version'). In other words for a firewall to have a version to check it must first exist. If a firewall exists on the client, it would at least have been obvious to use it for it's intended purpose of protecting the client.

Further, Staveley presents his collected debug data ('configuration information') as text (see e.g. Fig. 7), but does not explicitly disclose that the data file is stored as text (col. 8, lines 55-60 "places ... a copy of the full data file in storage location 36").

It would have been obvious to a person of ordinary skill in the art at the time of the invention to store the text data as text at least because it would save the time and expense of translating the text data into a different format.

Claims 1-2, 5-11 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,973,491 to Staveley et al. (Staveley) in view of US 2002/0067504 to Salgado et al. (Salgado).

Regarding Claims 1, 10 and 18: Staveley discloses:

running a scan tool (col. 3, lines 41-43 'run individual data collector programs'), wherein the scan tool collects debug data for the product (col. 3, lines 16-20 'Collecting the system information');

sending the debug data to a customer support site (col. 3, lines 49-51 'uploads the configuration information to central site 14');

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comparing the debug data to code level data to identify mismatches (col. 5, lines 36-40 'compares the installed version with the latest version'); and notifying the remote customer of the problem (col. 18, lines 45-46 "reporting system configuration data to users"; col. 12, lines 39-43 "reports can be generated to show ... whether a system's applications meet certain compliance requirements").

Staveley does not explicitly disclose running the scan tool in response to a problem at a customer site, comparing the debug data to code level data at the customer support site or providing instructions to the remote customer for resolving a problem.

Staveley does, however, disclose his invention is 'used to examine ... the system health' (col. 2, lines 50-52).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to run Staveley's scan tool (col. 7, lines 57-59 'launch the data gathering operation') in response to an indication that the system was in 'ill health', (e.g. having a problem).

Further, Staveley discloses a comparison utility at the client site (col. 5, lines 36-38 'main module 30 ... compares the installed version with the latest version') using data retrieved from the customer support site (col. 5, lines 36-38 'retrieves the version file from the central site').

It would have been obvious to a person of ordinary skill in the art at the time of the invention to move Staveley's comparison utility (col. 5, lines 36-38) to the customer support site ('central site') because one of ordinary skill in the art would have been motivated to use the comparison in the generation of reports (col. 6, lines 44-49 'a list of all local files. The information presented may be ... date and time created [and] messages about the file'; col. 11, lines 58-61 "In addition to client reports, reports may be generated for personnel at the central site") to present information regarding available updates to the client (col. 5, lines 38-40 'the latest version is downloaded and installed ... upon user request') and/or the customer support sales staff (col. 11, lines 58-61 'reports may be generated for ... central site sales').

Salgado teaches providing instruction to a customer for resolving a problem (par. [0007] "the system administrator must ... give instructions to each user on how to perform this task.")

It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide instructions to a customer for resolving a problem (Salgado par. [0007]) along with Staveley's notification (col. 18, lines 45-46 "reporting system configuration data to users") because resolving such problems "requires some level of technical computer savvy that not all users possess" (Salgado par. [0007]).

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Regarding Claims 2, 11: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses storing the debug data at the customer site (col. 5, lines 56-59 'stores the data in storage location 36').

Regarding Claim 5: The rejection of claim 1 is incorporated; further in view of the modifications discussed in the rejection of claim 1, Staveley teaches sending identified mismatch information to the customer site (col. 11, lines 36-39 'one set of reports may be designed for viewing by client/user personnel'; col. 5, lines 38-40 'the latest version is downloaded and installed ... upon user request').

Regarding Claim 6, 14 and 19: The rejections of claims 1, 10 and 18 are incorporated, respectively; further, in view of the modification discussed in claims 1, 10 and 18 Staveley teaches presenting identified mismatch information to customer service personnel (col. 11, lines 36-39 'another set of reports may be designed for use by personnel at the central site'; col. 11, lines 58-61 'reports may be generated for ... central site sales').

Regarding Claim 7, 15: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses comparing the debug data to code level data includes identifying preferred code levels for the product (col. 5, lines 36-40 'compares the installed version with the latest version').

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Regarding Claim 8, 16: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses downloading the scan tool from a Web server (col. 4, lines 8-10 'the updated tool set will be downloaded to the client site'; Fig. 2, 'Web Server 22').

Regarding Claim 9, 17: The rejections of claims 1 and 10 are incorporated, respectively; further Staveley discloses providing the scan tool to the customer through a download (col. 4, lines 8-10 'the updated tool set will be downloaded to the client site'). However, official notice is taken that it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the scan tool on a removable storage medium (i.e. install disk).

Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,973,491 to Staveley et al. (Staveley) in view of US 2002/0067504 to Salgado et al. (Salgado) in view of Steele et al. (Steele).

Regarding Claim 4, 13: The rejections of claims 2 and 11 are incorporated, respectively; further Staveley implies the customer site is protected by a firewall or security check (col. 7, line 33 'checks firewall version') and storing the debug data (col. 8, lines 55-60 'a copy of the full data file in storage location 36').

Staveley does not disclose the debug data is stored in text format.

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Steele teaches a debug data collection wherein the debug data is stored in text format (col. 3, lines 8-10 'The configuration item may be a text file') in an analogous art for the purpose of collecting configuration data (col. 2, lines 16-21 'information gathering to ... aid in managing and troubleshooting networks').

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Staveley, Salgado and Steel because Steel's storing the debug data collected in a text file (col. 3, lines 8-10) because the data represent text entries (Fig. 3-9) would have eased access to the debug data (col. 13, lines 15-20 'a Java base GUI interface is used to access data ... in a data file stored in storage location 36').

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Mitchell whose telephone number is (571) 272-3728. The examiner can normally be reached on Monday-Thursday and alternate Fridays 7:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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11/15/06



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